



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

CRAWFORD C. MARTIN
ATTORNEY GENERAL

January 4, 1968

Hon. John Kinross-Wright
Commissioner, Texas Department
of Mental Health & Mental
Retardation
Box S, Capitol Station
Austin, Texas 78711

Opinion No. M-178

Re: Responsibility for burial
of indigent patients who
die while on furlough from
a state hospital or while
in a state hospital.

Dear Dr. Kinross-Wright:

In your request for an opinion from this office, you
state the following:

"Our department has an increasing number
of its elderly patients who are furloughed to
licensed nursing homes with funds available
through the State Department of Public Welfare.
We are advised that such Public Welfare bene-
fits do not include any funds for the burial
of such indigent furloughed patients.

"In attempting to determine where the
responsibility for such burial arrangements
and costs belong we noted that Article 912a-
20, V.C.S. appears to place such burden on
the County in which the death occurs, but it
has been held in Attorney General's Opinion
No. 0-2392 that the State was impliedly ob-
ligated to shoulder this responsibility under
provisions of Art. 3241 V.C.S. which is almost
identical language to the present Art. 3196a
under which this department functions.

"Please advise us who is authorized and
required to bury indigent patients who die:

"(a) While on furlough from a state
hospital?

"(b) While in a state hospital?"

Article 912a-20 and Article 2351, Section 12, Vernon's Civil Statutes, state that the Commissioners Court shall provide for the burial of paupers. However, in Article 3196a, Vernon's Civil Statutes, relative to indigent patients admitted to state hospitals, the statute provides as follows:

"Section 1. Patients admitted to State hospitals and State psychopathic hospitals shall be of two classes, to wit:

"Indigent patients;

"Non-indigent patients;

"Indigent patients are those who possess no property of any kind nor have anyone legally responsible for their support, and who are unable to reimburse the State. This class shall be supported at the expense of the State."

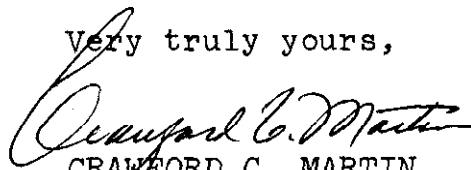
In Attorney General's Opinion No. 0-2392 (1940) a similar statute (Article 3241, Vernon's Civil Statutes) was construed to make the State and not the county liable for the burial of public indigent patients who reside in the county and die in the State sanitorium. In your request you stated that you have a copy of this opinion.

The reasoning of Attorney General's Opinion No. 0-2392 (1940) and the authority cited therein, control the questions under consideration. It is therefore the opinion of this office that it is the obligation of the State to bury indigent patients who die while in a State hospital or on furlough from a State hospital.

S U M M A R Y

Under the provisions of Article 3196a, Vernon's Civil Statutes, it is the obligation of the State of Texas to bury indigent patients who die while in a State hospital or while on furlough from a State hospital.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

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Prepared by Jack Sparks
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Hawthorne Phillips, Chairman
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A. J. CARUBBI, JR.
Staff Legal Assistant